

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DCP MIDSTREAM MARKETING,
LLC

Plaintiff,

v.

NEXTERA ENERGY MARKETING,
LLC

Defendant.

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CIVIL ACTION NO. 4:21-cv-01795

DEFENDANT’S NOTICE OF REMOVAL

1. Defendant NextEra Energy Marketing, LLC (“NEM”) removes this suit—a civil dispute between diverse parties involving an amount in controversy exceeding \$75,000.00—pursuant to 28 U.S.C. §§ 1332(a)(1), 1441, and 1446.

I. COMMENCEMENT AND SERVICE

2. Plaintiff DCP Midstream Marketing, LLC, filed its Original Petition against Defendant NEM on April 29, 2021 in the 80th Judicial District Court of Harris County, Texas in the case styled Cause No. 2021-2570, *DCP Midstream Marketing, LLC v. Nextera Energy Marketing, LLC*. See **Exhibit A**.

3. Plaintiff served NEM with the Original Petition on May 3, 2021.

4. This Notice of Removal is filed within thirty days of the receipt of service of process and within one year of the commencement of this action. Therefore, this removal is timely filed under 28 U.S.C. § 1446(b) and (c).

II. DIVERSITY OF CITIZENSHIP

5. Plaintiff DCP Midstream Marketing, LLC is a Delaware limited liability company whose sole member is DCP Assets Holding LP. DCP Assets Holding LP is comprised of two members, DCP Assets Holding GP, LLC and DCP Midstream Operating, LP. DCP Assets Holding GP, LLC's sole member is DCP Midstream Operating, LP. DCP Midstream Operating, LP is comprised of two members, DCP Midstream, LP and DCP Midstream Operating LLC. DCP Midstream Operating LLC's sole member is DCP Midstream, LP. DCP Midstream, LP's general partner is DCP Midstream GP, LP whose general partner is DCP Midstream GP, LLC, which is 100% owned by DCP Midstream, LLC. DCP Midstream, LLC is a joint venture between Phillips 66 and Enbridge Inc., both of which are publicly held corporations. Phillips 66 maintains its principal place of business in Texas and is incorporated in Delaware. Enbridge is a foreign corporation who maintains its principal place of business in and is incorporated in Calgary, Canada.

6. Defendant NextEra Energy Marketing, LLC ("NEM") is a limited liability company whose sole member is NextEra Energy Resources, LLC. NextEra Energy Resources, LLC is a limited liability company whose sole member is NextEra Energy Capital Holdings, Inc., which is incorporated and maintains its principal place of business, in Juno Beach, Florida.

7. In its Petition, DCP alleges that it has members "throughout the United States." *See Exhibit A* at ¶ 1. That allegation is inconsistent with DCP's public filings, which identify DCP Assets Holding LP as DCP's sole member. It appears that DCP Midstream is a publicly-traded master limited partnership that may have passive unit holders throughout the United States, including within Florida, but those unit holders are not members of DCP Midstream Marketing LLC. Therefore, complete diversity of citizenship exists between the Parties.

III. AMOUNT IN CONTROVERSY

8. Plaintiff's Original Petition contends that the Parties are in dispute over the amount due on an invoice for the sale and purchase of natural gas. Plaintiff invoiced NEM for \$20,519,998.11 and NEM paid the undisputed portion of the invoice, \$18,499,417.29. *See Exhibit A* at ¶¶ 15; 16. Therefore, Plaintiff seeks the disputed amount of roughly \$2,020,580.00, which exceeds the jurisdictional requirement of \$75,000 in 28 U.S.C. § 1332.

IV. NOTICE

9. NEM shall give notice of its filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). NEM shall also file with the clerk of the state court, and shall serve upon Plaintiff's counsel, a notice of the filing of this Notice of Removal.

V. STATE COURT PLEADINGS

10. Copies of all state court pleadings and orders are attached to this Notice of Removal. *See Ex. A, B, C & D.*

VI. EXHIBITS TO NOTICE OF REMOVAL

11. Pursuant to Rule 81 of the Local Civil Rules for the Southern District of Texas, the following documents are attached to this Notice:

- A. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings: Plaintiff's Original Petition is attached as **Exhibit A**; Citation of Service is attached as **Exhibit B**; State Court Answer is attached as **Exhibit C**; State Court notice of removal is attached as **Exhibit D**;
- B. All orders signed by the state judge: none;
- C. The docket sheet: attached as **Exhibit E**;

- D. An index of matters being filed: attached as **Exhibit F**; and
- E. A list of all Counsel of record, including addresses, telephone numbers and parties represented: attached as **Exhibit G**.

VII. CONCLUSION

WHEREFORE, because there is complete diversity between the actual and real parties, and the amount in controversy exceeds \$75,000.00, all applicable requirements have been met, and Defendant, NextEra Energy Marketing, LLC, properly removes this action from the 80th Judicial District Court of Harris County, Texas to this Court.

Dated: June 2, 2021

Respectfully submitted,

LOCKE LORD LLP

By: /s/ David E. Harrell, Jr.

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on counsel of record by electronic filing on this the 2nd day of June, 2021:

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